

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

WAYNE DALE KELLBERG,

Plaintiff,

vs.

FBI PRANK A TWEAKER,

Defendant.

CV 18-106-M-DLC-JCL

FINDINGS AND
RECOMMENDATION

Plaintiff Wayne Kellberg, appearing pro se in this action, filed a motion to proceed in forma pauperis under 28 U.S.C. § 1915(a). He also filed a complaint identifying “FBI Prank a Tweaker” as the named defendant.

In his complaint Kellberg alleges that in early 2015 the “FBI [...] televise[d] me way too long compared [sic] to anybody else in the U.S.A.” (Doc. 2 at 6.) And he concludes some unidentified person, entity or agency slandered his name. Kellberg provides no further factual description of his claim.

A district court has discretion to deny leave to proceed in forma pauperis under section 1915(a) “if it appears from the face of the proposed complaint that the action is frivolous or without merit[,]” i.e. lacking any arguable basis in fact or law. *Minetti v. Port of Seattle*, 152 F.3d 1113, 1115 (9th Cir. 1998).

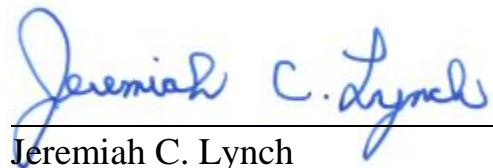
The Court finds Kellberg’s allegations in his complaint are entirely frivolous. Kellberg does not identify the person, entity or agency he claims to be

“FBI Prank a Tweaker.” Rather, on the complaint form where he was to identify the named defendant Kellberg instead provides his own identification and contact information. Thus, there appears to be no actual “FBI Prank a Tweaker” person or entity capable of being sued. Finally, the alleged factual premise for his complaint is wholly undescribed, unexplained and fanciful. His complaint is a fictitious paper which fails to state any claim for relief.

Therefore, IT IS HEREBY RECOMMENDED that Kellberg’s motion for leave to proceed in forma pauperis be DENIED on the grounds that his complaint is frivolous, and this action should be DISMISSED.

Furthermore, a plaintiff is not entitled to file objections to a United States Magistrate Judge’s recommendation that a motion to proceed in forma pauperis be denied. *Minetti*, 152 F.3d at 1114. Therefore, the Clerk of Court is directed to forward this recommendation to presiding District Judge for immediate consideration without awaiting a possible objection from Kellberg.

DATED this 13th day of June, 2018.



Jeremiah C. Lynch
United States Magistrate Judge